PENSION STANDARDS
FOR
PRINCE EDWARD ISLAND

PROPOSALS FOR DISCUSSION

Department of Finance
May 1988

88-05200/

FOREWORD

I am pleased to introduce this booklet on Pension Standards legislation. The aim of the booklet is to explain our intentions with respect to pensions, and to invite interest groups and private individuals to examine the provisions being considered.

In light of the continuing concern among many groups over the adequacy of pensions this government committed itself while in Opposition to the introduction of Pension Standards legislation. This booklet is the first step in that process.

Prince Edward Island is one of only two provinces that do not have Pension Standards legislation, and we feel it is time to move into this area. Your Government is of the opinion that contributors to pensions on Prince Edward Island deserve the same safeguards they can expect elsewhere in Canada. But it is a complex subject and we would like to have public input before shaping the legislation itself.

The proposals in the booklet are based on a federal-provincial consensus which was developed by all provinces together with federal involvement.

That consensus recognized that pension plans should have certain basic standards in order to improve income security for people in retirement. Included are provisions to improve portability of pension contributions, to improve pension rights for spouses and to provide suitable safeguards that plans are appropriately funded. Many of the proposals are aimed to help elderly females, who are in many cases deprived of adequate income in retirement.

The Government intends to introduce Pensions Standards legislation in the 1989 Session.

I urge all who are concerned about their retirement years to study this document.

Gilbert R. Clements,
Minister of Finance

PENSION STANDARDS

FOR

PRINCE EDWARD ISLAND

PROPOSALS FOR DISCUSSION

Department of Finance
May 1988

PENSION STANDARDS FOR PRINCE EDWARD ISLAND

PROPOSALS FOR DISCUSSION

1. Introduction

The intent of Pension Standards legislation is to set basic minimum standards for employer sponsored pension plans. The legislation does not compel employers to provide pension plans, nor does it compel employees to belong to pension plans. But if a plan is in operation in the province then it must meet the standards in the legislation. The standards being contemplated by the Government of Prince Edward Island are based on a federal-provincial consensus which has been adopted by our Maritime neighbours, Ontario, Alberta and the federal government. Pension Standards legislation exists in all provinces except Prince Edward Island and British Columbia. These standards have been developed out of a common desire to improve income security of Canadians in their retirement.

The purpose of this discussion paper is to describe the standards being contemplated with a view to receiving comments from interested parties.

2. Background

During the past three years the federal government and provincial governments have been attempting to respond to the legitimate desire of Canadians for improved income security in their retirement. The federal government, with the encouragement of provinces, has recently introduced improvements to the Canada Pension Plan which go some distance in this regard. Also the federal government has joined with provinces in developing uniform Pension Standards which have formed the basis for federal legislation. The Province of Prince Edward Island is proposing to adopt the new standards in line with those of the federal government and other provinces. This is a new initiative for this province, as we have not attempted to set standards to regulate pensions before.

The fundamental purpose of Pension Standards legislation is to provide safeguards to plan members so that their plans are actually able to deliver the pension promised in the plan, as well as to ensure that pension plan benefits meet certain minimum standards.

While the intent of the legislation is to set basic minimum standards, individual plans can exceed such standards if the sponsoring body so desires. The Government hopes that the legislation will encourage interest in pensions and will encourage development of pension plans by employers. The legislation has several objectives, the primary ones being;

- improved safeguards that plans are properly instituted and operated for the benefit of plan members.
- improved portability of pensions.
- improved income protection for spouses of plan members.
- improved disclosure of information for plan members.
- improved eligibility for plan membership.

Many of these provisions are intended to enhance benefits for females, given the large proportion of retired females with limited or no access to pension benefits.

The Government is putting this document forward in the knowledge that pension coverage (aside from the Canada Pension Plan, Old Age Security and Guaranteed Income Supplement) is fairly limited on Prince Edward Island by comparison with other provinces. We recognize that a large proportion of the Island labour force does not have access to an employer sponsored plan at present.

In view of the lack of provincial regulation of pensions the Government has only limited information on pension plans on Prince Edward Island. We do know that a large proportion of Island plan members belong to plans that are already federally regulated or registered through other province's legislation. We also know that a large body of Islanders belong to plans sponsored by provincial government institutions as well as the government's civil service itself. The numbers involved in private sector Island company plans is therefore relatively small.

The objective of this booklet is to promote discussion of Pension Standards for Islanders. Other provinces and the federal government have adopted minimum standards that are based on a general consensus. Plan members on Prince Edward Island deserve the benefits that those standards provide Canadians generally.

3. How Pension Plan Standards Work

The Province's legislation will apply to every pension plan covering any employees in the Province. The legislation will also permit the Province to enter into agreements with other provinces to permit delegation of supervisory authority over pensions to other jurisdictions, or vice versa. At present many Islanders belong to plans registered in other provinces, without the benefit of any specific authorization here on Prince Edward Island.

The Province must establish an office of the Superintendent of Pensions to administer the legislation and any regulations pursuant to it. No plan can operate without a Certificate of Registration issued by the Superintendent. That Certificate signifies that the Plan operates within the standards of the Pension Standards legislation. The method of registration will be clearly spelled out in the legislation. The administrator of the plan itself must be clearly identified and can be the employer, a pension committee, an insurance company or a board of trustees, or an agent acting on their behalf. Thus the Superintendent knows precisely who is responsible for the administration of each plan.

The Superintendent will be provided certain authority and responsibility concerning the administration of pension plans. His/her role is to ensure that plans comply with the Act both in form and application. The pension plan cannot be registered if it is not properly instituted to his/her satisfaction.

4. Minimum Standards in Pension Legislation

(a) Minimum Membership Rights

Where a pension plan exists for a class of workers all such employees are to be entitled to join the plan within no more than 24 months of continuous full time employment. Part-time workers are entitled to join within no more than two years of continuous employment, so long as their earnings or duration of employment are above certain minimum standards in each of the two years before joining. These entitlements should provide improvements in plan coverage.

The Pension Plan is to be regarded as a trust property for the benefit of the beneficiaries of the plan. Interest accruing is to be calculated and credited to contributions at prescribed rates in a prescribed manner under the Act or its regulations. By such measures we can ensure that contributions accumulate at a reasonable level, and that there can be no misunderstanding as to what the plan funds are intended for. The Plan Fund must be set up in a clearly identifiable separate trust account to meet the standards of the legislation.

(b) Portability and Vesting

Two major aspects of the Pension Standards concern portability and vesting. The aim of portability is to improve the ability of an employee to move from one company to another, or between provinces, without losing his or her pension rights. At present there can be severe losses when moving between jobs which can artificially prevent movement or cause employees to sacrifice their pension rights. The vehicle adopted for this is to adopt early vesting and locking in of pension rights. The federal-provincial consensus

proposes vesting and locking in after no more than two years membership in a pension plan.

What this means is that a plan member with 2 years membership would be entitled to a deferred pension upon leaving the plan and would not be permitted to withdraw his/her contributions.

The member can either leave his/her deferred pension with the original employer, or transfer it where permitted. The locked in funds can also be converted into other retirement savings options, but they cannot be cashed out.

Those who leave before the two years membership would be entitled to their contributions plus interest.

(c) Employer Obligations

Under the legislation the employee contributions and interest earned are not to exceed 50 per cent of the value of the benefits fixed by the plan and the employer must provide the rest on the event that the employee terminates employment or retires. On termination of employment, any excess of contributions with interest is to go to the employee. An employer is only entitled to any surplus funds where a plan specifically provides for such, on wind up of the plan and with the consent of the Superintendent of Pensions. Otherwise any surplus monies are to be distributed to members and former members of the Plan.

The legislation will include significant measures for the disclosure of information by administrators or employers to plan members or former members. The establishment of a Pension Committee is mandatory if sufficient numbers of members so wish, and plan members will be guaranteed membership on such committees.

(d) Retirement Age

The normal age of retirement under the legislation is not later than one year after reaching 65 years of age. At that time the plan member is entitled to the pension, so long as he/she was a member for at least two years from the date of application of the Act, or ten years in the interim. This is not to force someone to retire at 65 but to establish a right to the pension upon retirement no later than one year after reaching 65 years of age. Pension plans could of course specify earlier ages if they so wish.

Further, the legislation will establish an entitlement to an early retirement pension for plan members, of no less than ten years of attaining the normal retirement date. The value of such a pension must be at least as large as the value of the deferred pension benefit earned by the member under the plan at that point in time, actuarially reduced. Naturally this would not be the same as the full amount of the plan at the normal retirement age.

(e) Inflation Protection

There are continuing discussions on the part of various interested parties on the provision of inflation protection for pensions. We understand that there are legitimate concerns by some employers over the inclusion of indexation in pension plans and therefore do not feel it appropriate to mandate inflation protection through legislation. We are prepared to keep an open mind on this issue. We are particularly anxious to more fully understand the cost implications of pension indexation, which appear to be the major obstacle. Hopefully, public input will assist in this understanding.

(f) Measures to Improve Retirement Benefits for Women

The low income situation that prevails for the elderly is particularly prevalent among elderly females. There are many reasons for this and they include the dependency of the female upon her spouse's income and pension arrangements, the generally lower earnings of females in the work place, and the lack of opportunity to participate in a pension plan other than Canada Pension Plan. The Pension Standards provide important improvements to female benefits in the following ways:

- as described previously membership in pension plans will be open to those in part-time employment, and pensions will have improved portability. Both measures are expected to be particularly helpful for female workers to belong to pension plans.

- every pension paid under the legislation will be a joint and survivor pension. On death of the retired plan member the spouse and the survivor must receive no less than 60 per cent of the pension paid during their joint lives. Thus the wife of a plan member is guaranteed a pension on his death.

- the spouse of a deceased member of a pension plan will not be disentitled to the pension by reason of remarriage after the death of the former member. Many plans at present disentitle the widow from a share of her former husband's pension if she remarries.

- the spouse of a member who dies before reaching retirement age is entitled to receive payment of not less than 60 per cent of the value of the deferred pension that the member would be entitled to at that time.

- the sex of the member or beneficiary under a plan may not be taken into account in calculating contributions to a plan, benefits from a plan, eligibility for membership in a plan, or any other benefits in a plan. Given the longer life expectancy of females than males this improves the value of pension plans for females generally.

- the value of pensions earned during marriage (including common law arrangements), will become part of the family assets to be divided on breakdown of the marriage, according to the provisions of provincial family law or the pension benefits legislation. Thus pension credits earned by the plan member are to be regarded as family assets.

5. Summary - Next Steps

The Government of Prince Edward Island is interested in introducing Pension Standards legislation. The purpose of this booklet is to describe what such legislation involves. The components are taken from the federal-provincial consensus which now takes the form of legislation in Ontario, Nova Scotia, New Brunswick, Alberta, the federal government and is in discussion in other provinces. At the present there are no minimum standards on Prince Edward Island and this Government feels that members of pension plans on Prince Edward Island should have the same safeguards as elsewhere. Furthermore, the improvements that such legislation offer females in particular should be welcomed in their own right.

We intend to provide the opportunity to any interested parties to present briefs or any other viewpoints they might have, so that we might best determine the specific points which might form the legislation itself. It is the intention of the Government to move towards legislation for the 1989 Session.

A summary of the elements of the legislation is provided as an Appendix to this report.

APPENDIX

SUMMARY OF PENSION STANDARDS LEGISLATION

1. Definitions

A comprehensive listing of definitions of terms used in the legislation is provided.

2. Application of Act

The legislation states what is covered under the Act; principally all pension plans for persons employed in the province.

3. Duties and Responsibilities of the Superintendent

The legislation clearly defines the authority and responsibilities and reporting relationships of the Superintendent.

4. Agreements

The legislation permits the Government to enter into agreements with other provinces and the federal government concerning the administration of pension legislation.

5. Administration of Pension Plans

The legislation specifies who is entitled to be the administrator of a pension plan. This is to include a pension committee if membership so wishes.

The administrator must ensure that the pension plan is administered in accordance with the Act and Regulations pursuant thereto.

The administrator must file reports on the pension plan as required. The administrator must file a copy of a reciprocal transfer agreement concerning the pension plan.

The administrator administers the pension fund as a trustee for the employer, the members of the pension plan, former members, and any other beneficiaries under the plan.

6. Funding and Investments

The legislation requires that funding is adequate to provide for the pension benefits in the plan. The administrator must file actuarial reports, financial statements, etc., pertinent to the plan, on a regular basis as required.

Contributions for a pension plan are held in trust for the employee. The Pension fund is a trust property for the beneficiaries of the fund.

7. Registration of Pension Plans

The registration specifies the form and timing of registration required of the plan administrator. Any amendments also require registration. The process of issuance of a Certificate of Registration by the Superintendent is specified.

In order to be certified the plans must meet the following standards:

(a) Eligibility for Membership

This concerns the length of employment before being entitled to join a pension plan.

(b) Entitlement to Pension Benefits

This concerns the normal pensionable age and provision for early retirement.

It also specifies the minimum period of membership in a plan before gaining eligibility to a pension benefit.

(c) Vesting

This refers to the years of membership in a plan providing entitlement to a deferred pension benefit.

(d) Locking In

The plan must disallow entitlement to a refund after reaching entitlement to vesting. Some minor exceptions can be included.

(e) Interest

For defined benefit plans interest shall be credited to contributions at a minimum rate established under the legislation.

(f) Refund of Contributions

Where not vested, a member is entitled to withdraw his contributions with interest.

(g) Minimum Employer Contributions for Defined Benefit Plans

The legislation specifies the minimum share of the plan benefits to be paid by the employer.

(h) Joint and Survivor Benefit

Benefits that commence to being paid after legislation is in force are to be joint and survivor pension benefits. This guarantees the surviving spouse 60 per cent of the pension benefit.

(i) Pre-Retirement Death Benefit

This specifies the entitlement of the surviving spouse to the sixty per cent of the member's pension credits if the member dies before reaching retirement age.

(j) Remarriage

The legislation specifies that remarriage does not terminate a spouse's entitlement to a pension benefit.

(k) Pension Credits and Divorce

This concerns the division of pension benefit credits upon marriage breakdown.

(l) Portability of Pension Benefit Credits

This concerns the movement of credits upon termination of employment before retirement.

(m) Sexual Equality

Pension plans may not take into account the sex of the member or the member's spouse in determining contributions or benefits.

(n) Rights to Information

The pension plans must meet certain standards concerning disclosure of information to members and their spouses.

(o) Termination and Wind Up of Plans

Various obligations of the employer are laid out in the legislation, for termination of the plan. Specific provisions concern surplus funds.

(p) Effect of Sale of Business

The legislation provides protection for the members plan where the employer disposes of the business.

8. Objections and Appeals

A process of objection and appeal concerning Superintendent's decisions is laid out in the legislation.

9. Offences and Penalties

Persons contravening the Act are liable to fines or other penalties.

10. Regulations

The Act provides for Regulations pursuant to the Act.

11. Transitional Provisions

The legislation will allow a reasonable period for existing pension plans to be amended to bring them into conformity with the Act.